

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *[Signature]* D.C.

05 DEC 21 AM 9:08

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
WD OF MEMPHIS

JAMES I. BURLISON, RODNEY L.)
WAITS, and BUFORD O'NEAL)
TANKERSLEY,)
Plaintiffs,)
v.) No. 04-2597 ML/P
UNITED STATES OF AMERICA,)
Defendant.)

**ORDER DENYING WITHOUT PREJUDICE PLAINTIFFS' RENEWED MOTION FOR
SUMMARY JUDGMENT**

Before the Court is Plaintiffs' Renewed Motion for Summary Judgment, filed August 16, 2005. Defendant responded in opposition on September 14, 2005.

Plaintiffs bring this action pursuant to 28 U.S.C. § 2409a, the Quiet Title Act ("the QTA")¹, to quiet title to a purported easement over part of the Lower Hatchie National Wildlife Refuge located in Lauderdale County, Tennessee, which provides access to and from property held by Plaintiffs.² Plaintiffs move for summary

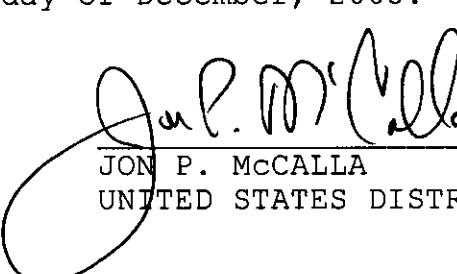
¹ In their Amended Complaint, Plaintiffs incorrectly state that they bring this action pursuant to 28 U.S.C. § 2409. (Am. Compl. ¶ 12.)

² Section 2409a provides that "[t]he United States may be named as a party defendant in a civil action under this section to adjudicate a disputed title to real property in which the (Continued . . .)

judgment with respect to their claim of the existence of a permanent easement of ingress and egress over the Lower Hatchie National Wildlife Refuge.

After Plaintiffs filed their motion, the Court held a pretrial conference in this matter on October 18, 2005. At the conference, the parties agreed to proceed to trial and to dispose of the case on the merits instead of on a preliminary determination of summary judgment. The Court also held a telephone conference on December 20, 2005. Pursuant to that conference, the parties agreed that they will submit proposed findings of fact and conclusions of law five (5) days in advance of the trial. Counsel will give summation arguments and the case will be tried on the affidavits, depositions, and memoranda of law. Accordingly, Plaintiffs' Renewed Motion for Summary Judgment is hereby DENIED, without prejudice.

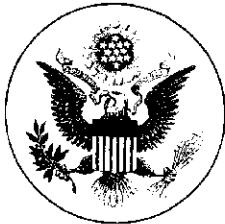
So ORDERED this 20 day of December, 2005.



JON P. McCALLA
UNITED STATES DISTRICT JUDGE

(. . . continued)

United States claims an interest, other than a security interest or water rights." 28 U.S.C. § 2409a(a).



Notice of Distribution

This notice confirms a copy of the document docketed as number 70 in case 2:04-CV-02597 was distributed by fax, mail, or direct printing on December 21, 2005 to the parties listed.

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Honorable Jon McCalla
US DISTRICT COURT